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PATENT

02-346-B (Formerly R258-DB)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Mittman	)	Examiner:	Retta
		)		
Serial No.:	09/922,425	)	Group Art Unit:	3622
		)		
Title:	MEDIA PURCHASE GOAL	)		
	CORRELATION SYSTEM	)		
		)		
Filed:	08/03/2001	)		

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Donna Miller Date: 6-22-06  
Name

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**(1) REAL PARTY IN INTEREST**

The real party in interest is Nami Media, Inc. of Venice, CA by virtue of an assignment from the inventors, dated August 2, 2001.

**(2) RELATED APPEALS AND INTERFERENCES**

There are no related appeals or interferences.

**(3) STATUS OF CLAIMS.**

Claims 1-8 are pending but rejected. The rejection of claims 1-8 is appealed.

**(4) STATUS OF AMENDMENTS**

No amendments were filed subsequent to final rejection.

**(5) SUMMARY OF CLAIMED SUBJECT MATTER**

A summary of the claimed subject matter is included in the specification at page 9, line 15 to page 13, line 4. **Figures 1-5** illustrate a media purchase goal correlation system **10** providing the desired features that may be constructed from the following components. As illustrated in **Figure 1**, an advertising media purchase **14** is provided. The media purchase **14** relates to a predetermined subject matter **18** and is placed in movies, video, television, interactive television, radio or print media within a stated geographic area **22**. The media

purchase 14 includes either an Internet website address 26 or other unique trackable identifier for accessing further information related to the subject matter 18 of the media purchase 14.

A first database 30 is provided. The first database 30 contains records 34 relating to the start date 38, end date 42, and stated geographic area 22 for a plurality of media purchases 14. Means 46 are provided for inputting and maintaining records 34 in the first database 30. As illustrated in **Figure 2**, means 50 are provided for determining the geographic location 54 associated with an Internet Protocol address 58. As illustrated in **Figure 3**, means 62 are provided for grouping the geographic locations 54 into uniform stated geographic areas 22.

As illustrated in **Figure 4**, a second database 66 is provided. The second database 66 contains records 70 correlating Internet Protocol addresses 58 of Internet users 74 with stated geographic areas 22. Means 78 are provided for inputting and maintaining records 70 in the second database 66. As illustrated in **Figure 5**, means 82 are provided for determining the Internet Protocol address 58 of an Internet user 74 accessing the Internet website address 26. Means 86 are provided for tracking the timing 90 of Internet-related goals 94 achieved by the Internet user 74 related to his accessing the Internet website address 26. As illustrated in **Figure 4**, means 98 are provided for accessing the second database 66 and assigning a stated geographic area 22 to the user's Internet-related goals 94.

As illustrated in **Figure 1**, means 102 are provided for inputting the timing 90 of occurrences of the Internet-related goals 94 and assigned stated geographic area 22 to the first database 30. Means 108 are provided for correlating and reporting the timing 90 of Internet-related goals 94 achieved by the Internet user 74 with the start date 38, end date 42 and a residual period 106 for media purchases 14 within the stated geographic area 22.

In a variant of the invention, as illustrated in **Figure 6**, a media purchase effectiveness report 110 is provided. The effectiveness report 110 includes a media type 114, media name 118, stated geographic area 22 of the media purchase 14, start date 38, end date 42, summary of Internet traffic 122 originating in the stated geographic area 22 between the start 38 and end

dates 42, and summary of Internet-related goals 94 achieved for Internet users 74 located within the stated geographic area 22 between the start 38 and end 42 dates and during the residual period 106. The media purchase effectiveness report 110 will permit a media buyer (not shown) to correlate volume of Internet traffic 122 and related goal 94 achievement resulting from a media purchase 14 in a stated geographic area 22.

In another variant, as illustrated in **Figure 7**, the media effectiveness report 110 is compiled continuously from the start date 38 to the end date 42 of the media purchase 14 and for the residual period 106 and is made available through the Internet 128, whereby a media buyer may evaluate the initial and residual Internet-related impact of any media purchase 14.

In still another variant, as illustrated in **Figure 6**, the Internet-related goals 94 comprise sales 130, downloads 134, arrivals at specified web addresses 138, user data capture 142, sales lead generation 144, identification of dealer locations 148, viewing of specific text 152, viewing of specific images 156 and receiving sound transmissions (not shown).

In a further variant of the invention, as illustrated in **Figures 8-10**, the means 108 for correlating and reporting the timing 90 of Internet-related goals 94 achieved by an Internet user 74 with the start date 38, end date 42 and a residual period 106 for media purchases 14 within the stated geographic area 22 includes graphical representations 146 of media purchases 14 for specified periods 150 for stated geographical areas 22, as illustrated in **Figure 8**. As illustrated in **Figure 9**, it further includes graphical representations 154 of timed occurrences of media goals 94 achieved in the stated geographical areas 22, and graphical representations 158 of the correlation of the timed occurrences of media goals 94 with the media purchase 14 periods for the areas 22, as illustrated in **Figure 10**.

In another variant, as illustrated in **Figure 16**, the means 108 for correlating and reporting the timing of Internet-related goals 94 achieved by an Internet user 74 with the start date 38, end date 42 and a residual period 106 for media purchases 14 within the stated geographic area 22 includes pattern recognition systems 162 for analyzing data yielding the

graphical representations **146, 154, 158** to produce a media purchase decision **166**.

In still another variant, as illustrated in **Figures 11-13**, the means **108** for correlating and reporting the timing of Internet-related goals **94** achieved by an Internet user **74** with the start date **38**, end date **42** and a residual period **106** for media purchases **14** within the stated geographic area **22** includes baseline statistical reports **170** of media goals **94** achieved absent media purchases **14**, as illustrated in **Figure 11**, statistical reports **174** detailing media goals **94** achieved after media purchases **14**, as illustrated in **Figure 12**, and reports **178** comparing baseline statistics **170** to those resulting from media purchases **14** in stated geographical areas **22**, as illustrated in **Figure 13**. Such comparisons and predictions may also be shown in graphical form as illustrated in **Figure 20**.

In yet another variant of the invention, as illustrated in **Figures 14 and 15**, the means **108** for correlating and reporting the timing of Internet-related goals **94** achieved by an Internet user **74** with the start date **38**, end date **42** and a residual period **106** for media purchases **14** within the stated geographic area **22** includes historical reports **182** detailing effectiveness of media purchases **14** in stated geographical areas **22**, as illustrated in **Figure 14**, and means **186** for comparing the historical reports **182** to current media goal achievement reports **190** to determine a differential effect of new media purchases **14**, as illustrated in **Figure 15**. Such comparisons are useful for predicting the effect of future media purchases **14**. Such comparisons and predictions may also be shown in graphical form as illustrated in **Figure 20**.

Additional tabular reports, illustrating unique Internet user visits to an Internet web site, related sales and a percentage showing the conversion of the visits to sales for identified media purchasers, in stated geographic areas over various time periods, as illustrated in **Figures 17-19**, are also provided.

**(6) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

Applicant respectfully requests review of the rejection of claims 1-8, which currently stand finally rejected under 35 U.S.C. 103(a) as being obvious over “Intel’s Pentium II gets \$20 mil intro (Intel launching Pentium II microprocessor worldwide on 5/7/97 backed by \$20 mil ad campaign)” Advertising Age, v68, n18, p16, May 5, 1997, (hereinafter Advertising Age), in view of Houri U.S. Patent No. 6,665,715 and further in view of *Muret et al.* U.S. Patent No. 6,792,458.

**(7) ARGUMENTS**

QUESTION PRESENTED: IS IT PROPER TO MAINTAIN A REJECTION PURSUANT TO 35 U.S.C. §103 WHEN NONE OF THE APPLIED REFERENCES TEACH OR SUGGEST A “RESIDUAL PERIOD” AS SET FORTH IN CLAIM 1?

Applicant respectfully submits that the pending rejection is error.

Claim 1, requires, *inter alia*:

means for correlating and reporting the timing of Internet-related goals achieved by said Internet user with the start date, end date and a residual period for media purchases within said stated geographic area. (emphasis supplied).

In making a determination of obviousness the references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination. *Hodosh v. Block Drug Co., Inc.*, 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187 n.5 (Fed. Cir. 1986).

The final rejection dated 11/22/2005 at the top of page 5 makes a reference to *Muret et al.* in the context of making “valuable business decisions” at col. 21 line 16-to-col. 23 line 41.

While the claim certainly contemplates making valuable business decisions this is not relevant inquiry. The claim requires a residual period—that is a period after which the ad or ad campaign has ended but customers still respond to an ad. None of the references suggest residual period and as such none could teach the desirability of the combination. Without a teaching of desirability there can be no finding of obviousness. MPEP 2141 at II. Under the heading “Basic Considerations Which Apply To Obviousness Rejections”. In the present case there can be no finding of desirability because there is no teaching of the Residual Period.

Further, the references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention. *Hodosh v. Block Drug Co., Inc.* at 187. Because none of the references, including *Muret et al.* teach a residual period as defined in claim 1 the finding of the present invention in the references not only relies on hindsight for making the combination, but the rejection relies on hindsight to even *find* the invention. The references simply do not contemplate the method of the present invention. The rejection ignores the limitations that are explicitly in the claim, and creates teachings that are simply not in the reference.

Despite a careful reading of the indicated passages of *Muret et al.*, and the balance of the reference, “residual period” is simply not contemplated. In the “Response to Arguments” section of the same final rejection (third line from the bottom of page 5) the examiner notes that that “residual period”: “is taught in *Muret et al.* and not in the *Advertising Age* article.” The references, taken alone or in combination, fail to teach the claimed limitation. Stated alternatively, none of the citations to *Muret et al.* appear to say anything about a residual period or anything equivalent to what is defined in claim 1. *Muret et al.* appear to teach a system for

monitoring Internet traffic to identify sales volume by web site over time, but *Muret et al.* fails to talk about delayed response to an advertisement and fails to disclose a **residual period** as defined in the instant Application.

Additionally, the references contain no suggestion to combine them as discussed in the final rejection. The *Advertising Age* article is simply a news report and, as such makes no further suggestions of any sort. *Houri* obtains information by querying user terminals that are connected to the Internet. See Figure 1A. *Muret et al.* obtain their information “by reading log files produced by web servers or by interfacing with the web server in real time.” See Abstract. Such disparate inventions cannot be combined in any meaningful way. In the “Response to Arguments” section of the latest Office Action, the Examiner states: “In this case, the motivation to combine is taught by the prior art, as indicated in the rejection above.” Motivation for making a combination requires some teaching or suggestion relating to the desirability of making the claimed combination, *Hodosh v. Block Drug Co., Inc.* at 187. There can be no suggestion when the references are substantively incompatible and fail to teach a limitation. Thus even if the references were combined the invention would not be disclosed.

The rejection relies on *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). However both of these cases, cited in MPEP 2143.01 require that obviousness be established by combining or modifying the teachings of the prior art to produce the claimed invention only where there is some “teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art.” In this case, the references fail to teach the claimed limitation and the references, because they do not teach the limitation and do not provide the requisite motivation.

The rejection does not point to any teachings in the prior art or any motivation to combine the prior in the way which would provide the claimed invention. In sharp contrast, the Applicant has clearly demonstrated several times that the prior art references do not include each and every element of the claimed invention and that the prior art functions in such different

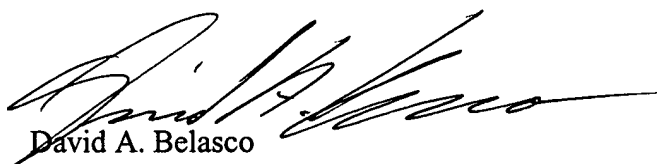


ways that they cannot be meaningfully combined. In such a situation an obviousness rejection cannot properly stand.

## CONCLUSION

Reversal of the pending 35 U.S.C. § 103 rejection is respectfully requested in view of the above presented remarks. A credit card authorization form for the \$310.00 fee is enclosed.

Respectfully submitted,



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**(8) CLAIMS APPENDIX**

Listing of claims involved in the appeal.

1. A media purchase goal correlation system, comprising:

an advertising media purchase, said media purchase relating to a predetermined subject matter and being placed in either of movies, video, television, interactive television, radio and print media within a stated geographic area;

said media purchase including an Internet website address for accessing further information related to the subject matter of the media purchase;

a first database, said first database containing records relating to the start date, end date, and stated geographic area for a plurality of media purchases;

means for inputting and maintaining records in said first database;

means for determining the geographic location associated with an Internet Protocol address;

means for grouping said geographic locations into uniform stated geographic areas;

a second database, said second database containing records correlating Internet Protocol addresses of Internet users with stated geographic areas;

means for inputting and maintaining records in said second database;

means for determining the Internet Protocol address of an Internet user accessing said Internet website address;

means for tracking the timing of Internet-related goals achieved by said Internet user related to his accessing said Internet website address;

means for accessing said second database and assigning a stated geographic area to said user's Internet-related goals;

means for inputting the timing of occurrences of said Internet-related goals and assigned stated geographic area to said first database; and

means for correlating and reporting the timing of Internet-related goals achieved by said Internet user with the start date, end date and a residual period for media purchases within said stated geographic area.

2. A media purchase goal correlation system as described in Claim 1, further comprising:

a media purchase effectiveness report, said effectiveness report comprising a media type, media name, stated geographic area of the media purchase, start date, end date, summary of Internet traffic originating in said stated geographic area between said start and end dates, and summary of Internet-related goals achieved for Internet users located within the stated geographic area between said start and end dates and during a residual period; and

whereby, said media purchase effectiveness report will permit a media buyer to correlate volume of Internet traffic and related goal achievement resulting from a media purchase in a stated geographic area.

3. A media purchase goal correlation system as described in Claim 2, wherein said media effectiveness report is compiled continuously from the start date to the end date of the media purchase and for the residual period and is made available through the Internet, whereby a media buyer may evaluate the initial and residual Internet-related impact of any media purchase.

4. A media purchase goal correlation system as described in Claim 1, wherein said Internet-related goals comprise sales, downloads, arrivals at specified web addresses, user data capture, sales lead generation, identification of dealer locations, viewing of specific text, viewing of specific images and receiving sound transmissions.

5. A media purchase goal correlation system as described in Claim 1, wherein the means for correlating and reporting the timing of Internet-related goals achieved by an Internet user

with the start date, end date and a residual period for media purchases within said stated geographic area further comprises:

graphical representations of media purchases for specified periods for stated geographical areas;

graphical representations of timed occurrences of media goals achieved in said stated geographical areas; and

graphical representations of the correlation of said timed occurrences of media goals with said media purchase periods for said areas.

6. A media purchase goal correlation system as described in Claim 5, wherein the means for correlating and reporting the timing of Internet-related goals achieved by an Internet user with the start date, end date and a residual period for media purchases within said stated geographic area further comprises pattern recognition systems for analyzing data yielding said graphical representations to produce a media purchase decision.

7. A media purchase goal correlation system as described in Claim 1, wherein the means for correlating and reporting the timing of Internet-related goals achieved by an Internet user with the start date, end date and a residual period for media purchases within said stated geographic area further comprises:

baseline statistical reports of media goals achieved absent media purchases;

statistical reports detailing media goals achieved after media purchases; and

reports comparing baseline statistics to those resulting from media purchases in stated geographical areas.

8. A media purchase goal correlation system as described in Claim 1, wherein the means for correlating and reporting the timing of Internet-related goals achieved by an Internet user

whereby, such comparisons are useful for predicting the effect of future media purchases.

**(9) EVIDENCE APPENDIX**

No evidence is being filed.

**(10) RELATED PROCEEDINGS APPENDIX**

There are no related proceedings.